

under the heading "AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT" under the heading "CUSTOMS AND BORDER PROTECTION" under the heading "EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR BORDER SECURITY" is reduced by \$12,000,000.

(b) FUNDS FOR AIRWINGS.—Of the amount provided in the title titled "BORDER SECURITY" for "Air and Marine Interdiction, Operations, Maintenance, and Procurement" under the heading "AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT" under the heading "CUSTOMS AND BORDER PROTECTION" under the heading "EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR BORDER SECURITY", \$12,000,000 is for the Northern Border airwings in Michigan and North Dakota: Provided, That the amount provided under this subsection is designated as an emergency requirement under section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SA 3786. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill H.R. 4939, making emergency supplemental appropriations for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 126, between lines 12 and 13, insert the following:

UNITED STATES INSTITUTE OF PEACE PROGRAMS
IN IRAQ AND AFGHANISTAN

SEC. 1406. (a)(1) The amount appropriated by this chapter for other bilateral assistance under the heading "ECONOMIC SUPPORT FUND" is hereby increased by \$8,500,000.

(2) The amount made available under paragraph (1) is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

(b) Of the amount appropriated by this chapter for other bilateral assistance under the heading "ECONOMIC SUPPORT FUND", as increased by subsection (a), \$8,500,000 shall be made available to the United States Institute of Peace for programs in Iraq and Afghanistan.

(c) Of the funds made available by chapter 2 of title II of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005" (Public Law 109-13) for military assistance under the heading "PEACEKEEPING OPERATIONS" and available for the Coalition Solidarity Initiative, \$8,500,000 is rescinded.

SA 3787. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 4939, making emergency supplemental appropriations for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

EXPEDITED REMOVAL

SEC. _____. Notwithstanding any other provision of law, the Secretary of Homeland Security may apply the expedited removal authority under section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)) to natives and citizens of El Salvador.

SA 3788. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 4939, making emergency supplemental appropriations for the fiscal year ending September 30,

2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 253, between lines 19 and 20, insert the following:

IMMIGRATION INJUNCTION REFORM

SEC. 7032. (a) SHORT TITLE.—This section may be cited as the "Fairness in Immigration Litigation Act of 2006".

(b) APPROPRIATE REMEDIES FOR IMMIGRATION LEGISLATION.—

(1) LIMITATION ON CIVIL ACTIONS.—No court may certify a class under Rule 23 of the Federal Rules of Civil Procedure in any civil action filed after the date of enactment of this Act pertaining to the administration or enforcement of the immigration laws of the United States.

(2) REQUIREMENTS FOR AN ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—

(A) IN GENERAL.—If a court determines that prospective relief should be ordered against the Government in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court shall—

(i) limit the relief to the minimum necessary to correct the violation of law;

(ii) adopt the least intrusive means to correct the violation of law;

(iii) minimize, to the greatest extent practicable, the adverse impact on national security, border security, immigration administration and enforcement, and public safety, and

(iv) provide for the expiration of the relief on a specific date, which allows for the minimum practical time necessary to remedy the violation.

(B) WRITTEN EXPLANATION.—The requirements described in subparagraph (A) shall be—

(i) discussed and explained in writing in the order granting prospective relief; and

(ii) sufficiently detailed to allow review by another court.

(C) EXPIRATION OF PRELIMINARY INJUNCTIVE RELIEF.—Preliminary injunctive relief shall automatically expire on the date that is 90 days after the date on which such relief is entered, unless the court—

(i) makes the findings required under subparagraph (A) for the entry of permanent prospective relief; and

(ii) makes the order final before expiration of such 90-day period.

(D) REQUIREMENTS FOR ORDER DENYING MOTION.—This paragraph shall apply to any order denying the Government's motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(3) PROCEDURE FOR MOTION AFFECTING ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—

(A) IN GENERAL.—A court shall promptly rule on the Government's motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(B) AUTOMATIC STAYS.—

(i) IN GENERAL.—The Government's motion to vacate, modify, dissolve, or otherwise terminate an order granting prospective relief made in any civil action pertaining to the administration or enforcement of the immigration laws of the United States shall automatically, and without further order of the court, stay the order granting prospective relief on the date that is 15 days after the date on which such motion is filed unless the court previously has granted or denied the Government's motion.

(ii) DURATION OF AUTOMATIC STAY.—An automatic stay under clause (i) shall continue until the court enters an order granting or denying the Government's motion.

(iii) POSTPONEMENT.—The court, for good cause, may postpone an automatic stay under clause (i) for not longer than 15 days. No further postponement of any such automatic stay pursuant to this paragraph shall be available under this subparagraph.

(iv) AUTOMATIC STAYS DURING REMANDS FROM HIGHER COURTS.—If a higher court orders that a decision on a motion subject to this subsection be remanded to a lower court, the order granting prospective relief that is the subject of the motion shall be automatically stayed until the district court enters an order granting or denying the Government's motion.

(v) ORDERS BLOCKING AUTOMATIC STAYS.—Any order staying, suspending, delaying, or otherwise barring the effective date of the automatic stay described in clause (i), other than an order to postpone the effective date of the automatic stay for not longer than 15 days under clause (iii), shall be—

(I) treated as an order refusing to vacate, modify, dissolve or otherwise terminate an injunction; and

(II) immediately appealable under section 1292(a)(1) of title 28, United States Code.

(C) MOTIONS.—

(i) IN GENERAL.—For purposes of this paragraph, any motion pending for not more than 45 days on the date of enactment of this Act shall be treated as if it had been filed on such date of enactment.

(ii) MOTIONS PENDING FOR MORE THAN 45 DAYS.—Every motion to vacate, modify, dissolve, or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States which has been pending for more than 45 days as of the date of enactment of this Act, and remains pending on the 10th day following such date of enactment, shall result in an automatic stay, without further order of the court, of the prospective relief that is the subject of any such motion.

(4) ADDITIONAL RULES CONCERNING PROSPECTIVE RELIEF AFFECTING EXPEDITED REMOVAL.—

(A) JURISDICTION.—Notwithstanding any other provision of law (statutory or non-statutory), including section 2241 of title 28, United States Code, or any other habeas provision, and sections 1361 and 1651 of such title, no court has jurisdiction to grant or continue an order or part of an order granting prospective relief if the order or part of the order interferes with, affects, or impacts any determination pursuant to, or implementation of, section 235(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)).

(B) EFFECT OF GOVERNMENT MOTION.—Upon the Government's filing of a motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in a civil action described in paragraph (2), the court shall promptly decide whether it continues to have jurisdiction and shall promptly vacate any order or part of an order granting prospective relief that is not within the jurisdiction of the court.

(C) EXCEPTION.—Subparagraphs (A) and (B) shall not apply to the extent that—

(i) an order granting prospective relief was entered before the date of enactment of this Act; and

(ii) the prospective relief is necessary to remedy the violation of a right guaranteed by the United States Constitution.

(5) SETTLEMENTS.—

(A) CONSENT DECREES.—In any civil action pertaining to the administration or enforcement of the immigration laws of the United